IN THE HIGH COURT OF JUDICATURE AT BOMBAY
SIDE JURISDICTION
CRIMINAL APPLICATION NO.3166 OF 2006

Balu Bhau Panhalkar ...Applicant.
V/s.
The State of Maharashtra ...Respondent.

Mr.Najmi adv. appointed for the Applicant.
Mr.Y.S.Shinde, APP for the Respondent/State.

CORAM: J.H.BHATIA, J.
DATE : 12TH April, 2007.
P.C.:

1. Heard Mr.Najmi the learned advocate appointed for the applicant, who is in jail and Mr.Shinde the learned APP for the State. Perused the report dated 14-12-2006 from Superintendent Kolhapur Central Jail filed through Public Prosecutor and the affidavit of Yashwant B. Phad, who is also attached to Kolhapur Central Jail.

2. The applicant is undergoing sentence of life imprisonment for the offence punishable under Section 302 of the I.P.C. and imprisonment for 10 years for the offence punishable under section 376. Both the sentences were awarded in the same case. He is undergoing the sentence in Kolhapur Central Jail and he was put in circle no.5 barrack no.3. His grievance was that on 9-5-2006 search was taken and certain additional food and other articles were put near his bedding by some other inmates of that barracks but on that ground

the applicant is being harassed and he was unnecessarily transferred from circle 5 to circle 6. He apprehends that the jail authorities are creating false record against him whereby his case may be spoiled and in future he may not get remission in the sentence as per the jail rules. Therefore, he made this application for taking appropriate action against the jail authorities.

3. In the report and the affidavit referred above, it is contended that as there are several prisoners belonging to different notorious criminal gangs, routine search is taken in barracks to find out if the inmates of the jail are in possession of any article, which they are not entitled to. Accordingly, on 9-5-2006 also search was taken in barrack 3 in circle 5 and it was found that some additional food etc. were lying covered in the bedding of the present applicant and similarly one aluminium pot was also found near his bedding, which was used for heating food articles. These articles were not allowed and therefore, the same were seized. About that statement of the applicant was recorded and he expressed his apology. Similarly in the case of some other inmates, food and other articles were found. They were also seized and they also tendered apology. In view of suspicion that the present applicant helps other persons in misbehaviour or in violation of jail rules

and for the security purpose, he was shifted to circle 5 to circle 6. He has made false complaint just apprehending that in future some jail offence may be registered and his record may be spoiled.

4. After giving anxious thought to the allegations made in the complaint and the report as well as affidavit of the jail authorities , I find that action taken by the jail authorities for transfer of the applicant from circle 5 to circle 6 was part of the routine jail administration and it can not be said that any illegal act is done. Mr.Shinde the learned APP makes a statement that in view of the incident dated 9-5-2006, no jail offence has been registered and no punishment has been awarded to the applicant and therefore, he should not have apprehension that on the basis of the same, jail offence would be registered and his record would be spoiled and it would affect the possibilities of getting remission in the sentence. In view of this statement made by Mr. Shinde the learned APP, it may be believed that on the basis of incident dated 9-5-2006, no adverse action shall be taken against the applicant. Transfer from one circle to another circle is not such a serious matter.

5. In view of the facts stated above and the statement made by Mr.Shinde on the basis of affidavit, no further action is necessary and the present application stands disposed off accordingly.

(J.H.Bhatia,J.)